



AL-10-001-8284

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

The Honorable Barbara A. Mikulski
United States Senator
1629 Thames Street, Suite 400
Baltimore, MD 21231

NOV 24 2010

Dear Senator Mikulski:

Thank you for your letter of October 29, 2010 to the U.S. Environmental Protection Agency (EPA) on behalf of your constituent, Mr. Stuart J. Fitzgibbon, regarding the ongoing attempts to resolve the alleged Clean Air Act (CAA) violations against American Sugar Refining (ASR) located in Baltimore, Maryland.

EPA issued Notices of Violation (NOV) to ASR on September 9, 2009 and January 7, 2010, alleging that the installation of Boiler #6 at the facility violated the New Source Review & Prevention of Significant Deterioration (NSR/PSD) regulations in the CAA, by causing a significant increase in the emissions of Nitrogen Oxides (NO_x) and Sulfur Dioxide (SO₂) to the atmosphere. Since that time, there have been three face-to-face meetings (with the most recent meeting taking place on November 4, 2010 in Baltimore), a technical conference call, and several pieces of correspondence between EPA and ASR. During this process, ASR has been cooperative and has provided requested information in a timely manner.

Enforcement cases involving violations of the NSR/PSD regulations tend to be some of the most complex cases under the CAA. They require a detailed investigation to reach a conclusion and, due to the prescribed relief, often take time to reach a resolution. The purposes of EPA's investigation and subsequent issuance of NOVs to ASR are to ensure compliance with the CAA, and that excess emissions are not being emitted from the Baltimore Refinery without the proper emission controls. This situation is made more serious from EPA's perspective because ASR's facility is located within an Environmental Justice area.

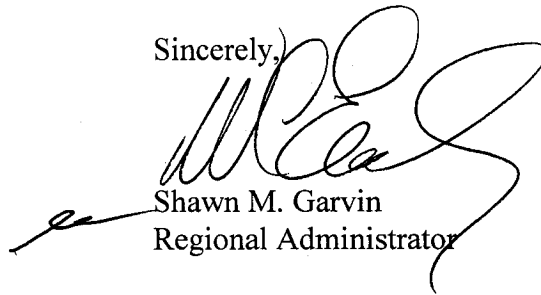
One of the things you requested in your letter were copies of the documents used to determine the emissions from Boiler #6. Typically, EPA does not provide companies with detailed emissions calculations in the pre-filing settlement negotiation process. Such analyses underlying the claims in a potential case are considered privileged as attorney work product. EPA calculated emissions from the facility using information provided by ASR in response to an information request from EPA. Emission calculations will be provided if this case moves to actual litigation, at the proper phase of discovery as set by the court. What EPA has provided, however, and what Mr. Fitzgibbon indicated in his October 11, 2010 letter to you, is a detailed description of the methodology and emission factors used to calculate emissions at ASR's Baltimore Refinery.



EPA is continuing with the negotiation process and, in fact, we believe that a meeting held recently in Baltimore on November 4, 2010 was very productive for both parties. We are hopeful that a mutually acceptable resolution to the alleged violations will be reached that will reduce the amount of NO_x and SO₂ being emitted into the neighborhoods surrounding ASR's Baltimore Refinery while allowing it to remain an economically viable and competitive facility.

If you have any questions, please do not hesitate to contact me or have your staff contact Mrs. Linda Miller, EPA's Maryland Liaison, at 215-814-2068.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shawn M. Garvin', is written over the typed name and title.

Shawn M. Garvin
Regional Administrator

